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“WHOSE TRADE ORGANIZATION? The Comprehensive Guide To The WTO”

Excerpts from the *new* book by Lori Wallach and Patrick Woodall of Public Citizen

The WTO’s Coming to Dinner and Food Safety is Not on the Menu

The WTO’s relentless drive toward the “harmonization” of food, animal and plant regulations based on low, industry-preferred international standards endangers human health and sharply curtails the ability of elected governments to protect the health of their citizens in this critically important area. WTO-approved standards are generally set in private-sector bodies which do not permit consumer or health interests to participate and which make decisions without complying with domestic regulatory procedures for openness, participation or balance. Even if a country’s domestic food safety law treats domestic and foreign products identically, if the policy provides greater consumer protection than the WTO-named international standard, it is presumed to be a WTO violation. WTO obligations to declare exporting nations’ meat inspection systems “equivalent” has allowed meat that does not meet U.S. safety standards to enter the U.S. market and appear in stores with USDA labels. Meanwhile, countries’ attempts to regulate for emerging health threats (such as “Mad Cow” disease) or to regulate products whose health effects are uncertain (such as genetically modified foods and artificial hormone residues in meat), are characterized as trade barriers in the WTO. The World Health Organization has recognized the globalization of the food supply as a major threat to international public health.

Some key findings and developments presented in this chapter include:

- **The volume of food imports has soared but inspection has not kept up.** The rate of food inspections at the U.S. border has fallen far behind the dramatic increase in the volume of trade in food products. In the U.S. in 1997, 75 full-time inspectors monitored 2.5 billion pounds of meat and poultry imports; by 2001, the same number of inspectors had responsibility for 3.7 billion pounds, an increase in per-inspector poundage from 91,000 to 135,000 a day. An increasing number of pesticide residue violations were also found in foreign food imports. In 1995, the year that the WTO went into effect, about one percent of inspected foreign and domestic food was found to have pesticide residues higher than U.S. standards. By 2000, violations in inspected foreign foods had climbed to 3.8%, nearly five times the level of violations found in domestic foods. The General Accounting Office (GAO) has called for stricter food safety inspection standards for foreign food, but these have been ignored because this would violate the WTO requirement of equal treatment for domestic and imported products.
- **As required under WTO “equivalency determination” rules, the U.S. declared dozens of countries to have meat inspection systems “equivalent” to that of the U.S. even though the countries’ standards and performance violated U.S. law and regulation.** Many nations maintain their equivalency status and this right to ship meat to the U.S. despite documented violations of U.S. policy. For instance, Argentina’s meat inspection system maintains its equivalency status despite well-documented problems that include contamination of meat with oil, hair and feces. Similarly, the Brazilian system, which allowed companies to pay meat inspectors in violation of U.S. law requiring independent government inspection, was also declared “equivalent.” Meat imports from these nations enter the U.S. and are treated the same as domestic products including receiving an USDA label which makes them indistinguishable to the consumer.
- **Time and time again, WTO tribunals have refused to permit any regulatory action based on the “Precautionary Principle.”** Governments have long relied on this principle to shield their populations from uncertain risks from new or emerging products. Previous “precautionary” actions by the U.S.

government to ban the morning sickness drug Thalidomide in the 1960s and to prevent the outbreak of Mad Cow disease in the 1980s and 90s helped avert the substantial human and agricultural devastation that occurred in other countries. Yet the U.S. has used the WTO to systematically attack other countries' precautionary regulations such as those dealing with beef hormones, genetically modified organisms (GMOs), invasive species and agricultural pests

- **WTO rules require member countries to base domestic regulatory regimes on standards set by closed-door, unaccountable institutions like the Codex Alimentarius Commission (Codex) in Rome.** The conflict between Codex's trade promotion agenda and its food safety agenda, plus the growing dominance of trade officials and food industry representatives at Codex meetings, often results in international standards that permit much higher levels of exposure and risk than U.S. policies. For example, Codex rules fail to take into account the special impact of chemical residues on children (as is required under U.S. law) and they also permit the use of cyclamates, which have been banned in the U.S. after they were linked to birth defects and the enhancement of the carcinogenic qualities of certain chemicals. Codex recently approved new rules that would permit any food to be irradiated at any dose and that would further undercut governments' ability to regulate such processes.
- **Any domestic standard that provides more health protection than a WTO-approved standard is presumed to be a trade barrier,** unless the higher standard is supported by extensive scientific data and analysis that clearly shows a specific and significant risk associated with the lower standard. No country has yet been able to demonstrate the need for higher standards to the WTO's satisfaction, despite several lengthy and costly attempts by developed countries to perform the WTO-required risk assessments on the dangers posed by artificial hormones in beef, invasive species, pest contamination of native salmon populations, and more.
- **WTO rules threaten provision of product information to consumers.** WTO rules require that regulations cannot be based on descriptive characteristics of a product meaning that even labeling meat with information such as the presence of hormone residues, GMOs or perhaps even country of origin is likely to be challenged as an unfair barrier to trade.

Evidence of the effects of these rules is presented through an in-depth evaluation of several landmark food safety and plant and animal health laws, including:

- The WTO challenge by the U.S. to the EU's popular precautionary measures banning meat produced with artificial growth hormones resulted in WTO jurisprudence that effectively forbids "zero risk" standards. The logic of the U.S. attack provides the basis for European claims that some U.S. policies which guard against Mad Cow disease and its devastating human variation, Cruetzfeld-Jacob Disease, may violate WTO rules.
- The recent U.S. challenge to European GMO policies which are based on a claim that Europe has a burden to prove a product is dangerous following WTO risk assessment rules before it can regulate – versus a burden on industry to demonstrate safety.
- The dangerous precedent set by the repeated, yet futile, efforts of the Australian government to demonstrate to the WTO's satisfaction that the country had identified a risk posed by identified bacteria and other pests in imported raw salmon that are not found in their native salmon stocks, and had a right to set policies to avoid this risk. In the end, several successful WTO challenges forced Australia to give up its policy.
- Threats of WTO action against a U.S. policy to combat the risk of very damaging and costly infestations of Mediterranean fruit flies brought in through Spanish citrus imports.
- The U.S.-led successful challenge to Japan's strict import regulations that protect its apple and pear crops from devastating fire blight contamination. Other island nations, such as New Zealand, rely on measures similar to Japan's.